CA2ALXC25
88N21
c.1

LEGISLATURE LIBRARY
AUG 13 1988
EDMONTON

NEW BRUNSWICK

A Trial In Parliamentary Democracy

by

Shaun F. Mellen

Legislative Intern

February 1988

If there be no Opposition, there is no democracy. "Her Majesty's Opposition" is no idle phrase. Her Majesty needs an Opposition as well as a Government! [1]

Sir Ivor Jennings

It is now not only accepted but required that the accountability of the Government be secured primarily through Parliament and that "the Opposition" must be in Parliament to insure this. [2]

Thomas A. Hockin

Introduction

The New Brunswick election of October 13th, 1987 did more than simply end the seventeen year reign of Richard Hatfield's Progressive Conservative Party and propel Frank McKenna and the Liberal Party into the seat of power. The October election secured an overwhelming mandate for the Liberals of New Brunswick by a clean sweep of the fifty-eight electoral seats available, thereby depriving the Progressive Conservatives and New Democrats of direct involvement in the parliamentary process. This result poses problems for all three political parties, including the governing Liberals who must decide how to function in an adversarial system without an adversary. [3]

The central issue of this paper is much the same as that faced by the newly-elected government of New Brunswick. Simply put, if one contends that the role of an Opposition is essential to a parliamentary democracy, how can the problem of having no elected Opposition be resolved? Alternatively stated, how can the role of an Opposition be fulfilled when there are no elected members to carry out this function? Indeed, can this role be filled, and is it absolutely necessary for the proper functioning of our democratic system? In the absence of an elected Opposition, are there mechanisms

which can be put into place to ensure that the Government remains responsive and accountable? These and related issues will be discussed during the course of this paper, but first it is necessary to outline just what is the role of an opposition.

The Role of an Opposition

When discussing the role of an Opposition, it should be first clarified as to whom the term "Opposition" applies. As Thomas Hockin has stated:

> When one talks of the "roles of the Opposition," one must first be clear about whether one refers to political opposition in general or to parliamentary party opposition in particular. And if one refers to the latter, one must be clear as to whether reference is being made to opposition in the Government party or in the Opposition party or parties. [4]

This paper is concerned with the absence of an 'elected opposition' and the concerns flowing from any possible void that may be created. 'Elected Opposition', by its very nature, refers to an opposition that operates within the parliamentary system. Giovanni Sartori has labelled this a "constitutional opposition" and, "what the opposition opposes is a government, not the political system as such." [5] If we therefore limit our discussion of opposition, to opposition by duly elected members working within the parliamentary system, it becomes further necessary to distinguish between intra-party opposition and other party opposition. Intra-party opposition is employed to refer to opposition which may arise from within the Government caucus. Other party opposition, while admittedly a somewhat clumsy term, is quite straightforward. It refers to opposition from a party other than the Government party, which Allen Potter refers to as, "opposition with a capital 'o' ". It is this type of opposition to which we allude, when we state that New Brunswick has been left without an elected opposition. There may, of course, be intra-party opposition which can be very effective even, in rare instances, to the point of assuming the role traditionally assigned to the recognized opposition.

Thus, our fascination with the nonexistence of an opposition within New Brunswick pertains solely to the lack of an officially recognized parliamentary opposition. Hence,

the following discussion of the role of an opposition will relate specifically to this type of opposition; for it is within this context that we can assess alternative methods of fulfilling this role.

Intrinsic to the concept of an 'opposition role' is the idea that the opposition will have a role that is uniquely its own. This role is separate and distinct from the duties and obligations that are common to all members. An example of this universal function performed by all members (or in theory should be), is the advocacy and protection of their regions particular interests.

A brief examination of the relevant literature seems to indicate that today's view of the role of an opposition is less simplistic than in years past. No longer is it sufficient to say that, "the duty of an opposition is very simple, it is to oppose everything, and propose nothing". [7] Likewise, the comments of Disraeli may not be entirely accurate for the present times. He has stated:

> The originators of measures and inventors of a policy, the individuals who come forward with their schemes and suggestions for public approbation, are not the opposition, but the ministers of the crown; we (the opposition) stand here to criticize the suggestions and schemes which they bring forward . . . [8]

It may be a fact that my selective reading list has left me with an incomplete and inaccurate perception of this matter, and I would be open to criticism on this point. At present, however, there does seem to be an emphasis on not only criticizing the government's proposals, but on putting forth counter-recommendations as well. Yet rather than suggest that there has been an evolutionary development in the role of an opposition down through the years, it may be more appropriate to suggest that yesteryear included competing visions of the role of an opposition. For instance, the comments of Sir Charles Tupper in 1901 might be accepted as evidence of a competing school of thought, more closely in line with the present notion of what the role of the opposition entails. At that time, Tupper wrote:

> The duty of Her Majesty's Loyal Opposition is to exercise its vast influence on restraining vicious legislation, and in giving a loyal

> support to proposals of the Government which commend themselves as in the interests of the country; while initiating such measures for the commonwealth as are neglected by the Administration.[9] (emphasis added)

In a similar vein, John Diefenbaker has stressed the necessity of the Opposition to do more than simply oppose. He has written:

> The decisive factor in determining the Opposition's role is that it is the Official Opposition that is the alternative government. It cannot therefore oppose without reason or simply from caprice. It must have alternative policies and these must be responsible and practical for they, after all, provide the basis for criticism and the reason for Opposition.[10]

The whole idea that an opposition should criticize government actions and intentions while proposing alternatives of its own, hits at the very core of an opposition's role. To be more specific, the role of an opposition could be said to encompass two aspects: firstly, to keep the government accountable and responsive to the electorate; and secondly, to convince the electorate that it should be given the opportunity to govern (i.e. replace the government).

Patrick Fitzpatrick of the University of New Brunswick Political Science Department has dubbed the former aspect, "inter-election accountability" and describes it as, "an Opposition responsibility to use legislative procedures such as Question Period and the Estimates procedures to prevent any potential misuse of the power granted to the Government by the electorate."[11]

The latter aspect of deposing the party in power and having the opportunity, itself, to govern is the ultimate achievement and an unequaled signal of success. Stanley Knowles has described this latter aspect as somewhat of an opposition paradox:

> I have spent all this time telling you how important is the job of the opposition in the legislative process; now I am saying that the opposition should actually work itself out of that important job. In other words, the opposition should so conduct itself in Parliament as to persuade the people of the country that it would be an improvement on the government of the day."[12]

There are two problems which arise as a result of the New Brunswick election. One, which has been mentioned previously, is the question of accountability and how to ensure this in the absence of an opposition. The second problem is that the opposition has lost one of its most effective routes of influencing the electorate -- the floor of the Legislative Assembly. Erskine May has written that:

> Since the strength of modern party discipline makes a Ministry largely invulnerable to direct attack in the House of Commons, the criticism of the Opposition is primarily directed towards the electorate, with a view to the next election, or with the aim of influencing government policy through the pressure of public opinion. The floor of the House of Commons provides the Opposition with their main instrument for this purpose. [13]

While in Session, the media often pays close attention to the proceedings of Question Period. This is, of course, a main vehicle of the Opposition. One has to wonder then how successful the would-be opposition will be when handicapped in this fashion.

One final comment on the two aspects of the role of an opposition: inter-election accountability and ultimately replacing the government. While these aspects are inter-related to a high degree, 'ensuring the accountability of the Government' can also stand on its own. In otherwords, the opposition must accept that the accountability aspect is there to insure that the people receive good government from the party which holds the majority in the Legislative Assembly. Of course, should the duly elected government fail to do this, the opposition may expose these shortcomings to further its own cause. [14]

Prince Edward Island: A Possible Precedent?

On July 23rd, 1935 the voters of Prince Edward Island elected a Liberal government with an absolute majority: thirty seats for the Liberals, zero for the Conservatives. It is the only other time in Canadian history where an election has produced no opposition at all. It is natural, therefore, that the P.E.I. situation should be studied. Firstly, to see what actions were taken, if any, to compensate for the lack of an official opposition; and secondly, to decide if the P.E.I. case is an appropriate example which should be followed in New Brunswick, or whether it is distinguishable by its differences.

It is debatable whether any formal actions were actually undertaken by the Liberal Government to offset or counter the fact that there was no elected opposition. A newspaper article which appeared after the recent New Brunswick election, said that Premier Ghiz of Prince Edward Island recommended Premier McKenna follow the actions taken by the Premier of P.E.I. at the time of the 1935 election. Ghiz is reported to have said, "What (Premier) Walter Lea did was he chose a leader of the opposition from his own caucus and he did a very good job." [15] Another newspaper article, written after the election in New Brunswick, put forward the same point only attributing it to Walter Lea's successor, Thane Campbell, after Lea's untimely death in January 1936. [16] However, just after the 1935 P.E.I. election the Liberal newspaper, 'The Charlottetown Patriot', sought to clear up any misconceptions about Premier Lea appointing an opposition from his own ranks. At that time, 'the Patriot' wrote:

> There has evidently been some misunderstanding regarding the attitude of Hon. W.M. Lea. The mainland papers published the day after the election carried a despatch that he had said he was unable to say what he would do in carrying on British parliamentary procedure in the next Legislature, except to make one of his members as a make-shift Opposition voice.
>
> There has been a misunderstanding somewhere, as Hon. Mr. Lea declares positively he had never made such a statement. [17]

A few days later 'the Patriot' again wrote:

> He (Premier Lea) was reported to have said that because there was no opposition on the Island he would have to create a nominal opposition and designate a member of his own party to fill the position. Such a tale could hardly emanate anywhere out of Alice in Wonderland. [18]

Despite the conflicting reports over the official sanctioning of an opposition from within the Liberal ranks, such an opposition did exist and may even have been encouraged. Wayne MacKinnon, author of a history of the Prince Edward Island Liberal Party, has written that, "the government, aware that its monopoly position could lead to complacency, welcomed constructive criticism from within its own ranks. Some of the members accepted the role of devil's advocate with relish and enthusiasm." [19] Another author, Frank MacKinnon, seems to suggest that the presence of an opposition within the British parliamentary system was such an integral aspect, that some members felt

compelled to fill this role. Frank MacKinnon writes, "the opposition principle in the Legislature had become so well established that the one-party group soon developed an opposition within itself." [20]

Was this type of opposition effective? Again, a debatable point. Jim Bill McIntyre, a former Liberal cabinet minister under both Premiers Lea and Campbell, has expressed the opinion that the Liberal 'Opposition' was quite effective:

> I recall that in 1935, when we returned to power in the Legislature of Prince Edward Island, there was no opposition at all. We had plenty of opponents in our own party, though, and I think some of our own party members gave us more trouble than we would have had if there had been a half dozen Conservatives in the House. [21]

Frank MacKinnon has suggested that the 'rump opposition' did not become fully active until the second and third sessions of this sitting of the Legislature. Prior to this point, he describes the House as a mere extension of the Liberal caucus:

> The House was little more than a Liberal caucus with the Speaker in the chair, and the debating habits of caucus were readily transferred to it. In fact, the Government caucus often met in the chamber with the Premier presiding, and when the time came for the House to meet, the Speaker would take the Premier's place and the House would attempt to give formal expression to what its personnel had already discussed in caucus. [22]

The Prince Edward Island electorate obviously felt that the Government had remained responsive to its wishes for it returned another huge Liberal majority in the 1939 election, with only three seats going Conservative. Notwithstanding this election result, and the possible effectiveness of the 'rump opposition', the question becomes: is this an appropriate method to deal with the New Brunswick situation? Is the rather informal, unstructured method used in Prince Edward Island a sufficient means to ensuring that the Government remains accountable? It would seem preferable to have a more structured system put in place because there is no guarantee that what worked (for the sake of argument) in P.E.I., will work in New Brunswick. If left to develop on its own would a 'rump opposition' actually develop? Similarly, one has to question whether a designated opposition would be accorded much respect. Would it be an effective agent of accountability, or simply a showy token given to appease those who are desirous of an

opposition? Even if it was an effective body would it be perceived as such? In my mind, there are too many doubts, and questions left unanswered, to follow the P.E.I. example.

There is one other factor in the P.E.I. equation which further serves to distinguish it from the New Brunswick situation, and that is the media. The newspapers of Prince Edward Island were blatantly partisan and essentially no more than organs of their respective parties. The Charlottetown Patriot was unswervingly Liberal, while the Charlottetown Guardian was equally Conservative. Regardless of one's feelings about the press being overtly partisan, a case could be made that the partisan press may have helped ensure the Government's accountability. This is a double-edged sword, and I would concede that criticism by a partisan source is somewhat diminished in the eyes of the neutral or skeptical public. However, in that time period, a partisan press seemed to be very much an accepted occurrence. Moreover, it does not seem unlikely that the Conservative Guardian would, itself, seek to become an unofficial opposition. This point should be stressed, especially in light of the fact that the Liberal Patriot encouraged the Conservative Guardian to assume the role of an Opposition. The Charlottetown Patriot said as follows:

> The Conservative press in this province has now its golden opportunity. There will be no Opposition in the Legislature as a result of the election of July 23rd last, but its press can act as Opposition.[23]

Considering its own partisan nature, it then continued somewhat ridiculously:

> There will therefore be a tremendous responsibility resting upon our esteemed contemporary, but it will have to mend its ways and be prepared to give a fair and impartial review of the situation.[24] (emphasis added)

The point is, there existed for the defeated Conservatives a mechanism which could be used, and would no doubt be used diligently to promote alternative viewpoints and strategies. Admittedly, this might be like preaching to the converted but nevertheless, it did exist.

When we speak, therefore, of the possible effectiveness of a 'rump opposition', and the relatively satisfied electorate of 1939, perhaps our enthusiasm should be tempered by the unknown variable -- the effect of The Charlottetown Guardian. While any impact is

purely speculative, the knowledge that it may have been an influential factor should cause us to search for other solutions. This is especially so, when considered alongside the unanswered questions raised earlier.

Options for New Brunswick

Before deciding which options to endorse and/or suggest as in the best interests of the New Brunswick electorate, it is first necessary to resolve a dispute between two principles, both cherished in our democratic system. The first principle is that the electorate is free to exercise its choice in the selection of its representatives in democratic elections held from time to time. The second principle, one perhaps more esoteric yet no less fundamental, is that the presence of an Opposition is essential for a parliamential democracy to function properly. A conflict between these two principles only rarely arises but has done so in the recent New Brunswick case. Clearly one would have to concede that, as a result of the electorate's decision, the Legislative Assembly of New Brunswick will be without an elected Opposition presence. The question then becomes, should there be steps taken to ensure that the 'role of an Opposition' is filled even in the absence of an elected Opposition, or would any such action be seen as undermining the will of the electorate? In other words, if the electorate has decided that its interests are best served by fifty-eight Liberals, would it be contrary to democracy to suggest that the 'role of an Opposition' still be carried out?

In my view, the answers to these queries should be as follows: one, an elected government, regardless of the size of its majority, should never be free from the checks and balances carried out by an Opposition; two, when the agent is absent, the role should still be filled; three, a decision by the electorate to not elect an Opposition in no way invalidates its role or diminishes the necessity of that role; and four, the will of the electorate would not be undermined by having the role of an opposition filled as presumably the electorate voted for a party or representatives they felt would remain responsive to their wishes, and the presence of checks and balances helps to ensure this. Moreover, the decision making power lies nowhere else but in the hands of the Liberal government. Therefore, it cannot be said to be a contradiction of its mandate if the

Government of Frank McKenna works to preserve the 'role of the Opposition', for it has been invested with the power to decide what is in the best interests of the people. If McKenna feels that the people of New Brunswick would be best served by having the functions of an Opposition performed, and I am not sure how he could decide otherwise, it is the obligation and duty of his government to implement such measures that would bring about this end.

The alternatives which will be discussed shortly are designed to keep the Government open, responsive, and accountable to the public. You will recall that this was earlier described as one aspect of an Opposition's role. The other aspect, as designated within the role of an Opposition, was that the Opposition should ultimately seek to convince the electorate that it is more fit to govern. This second aspect (i.e. seeking to replace the Government) is important to the following discussion only in that it must be recognized as a motivational catalyst to those in opposition, elected or not. Because of this, one could speculate that the most diligent efforts might come from those who expect to reap the rewards at a future election. Therefore, when we decide upon the most appropriate ways of ensuring the Liberal Government's 'inter-election accountability', there must be some consideration given to a possible role for the New Democratic and Progressive Conservative parties of New Brunswick.

The Prince Edward Island methods for dealing with an absence of elected opposition have already been described and commented upon. It is not my intention to reiterate in its entirety, what was earlier said, however, there is one point deserving of mention. The P.E.I. Government may or may not have formally recognized an opposition from within its own party. The evidence, however, at least seems to indicate that such an opposition was not discouraged and may have even been encouraged. Regardless of what other steps Premier McKenna might take, he should at least follow the P.E.I. lead in not discouraging his members from speaking out on issues which they feel are important. Specifically, I would recommend that McKenna communicate to his Members that party discipline will be lessened and further convey, in no uncertain terms, that they will be expected to participate at all stages of debate on matters before the House. As evidence of his commitment, McKenna should reduce the Whip's role to one of ensuring adequate attendance. No longer should the Whip operate as an enforcer of the party line.

Turning our attention from the P.E.I. case to one of more recent concern, let us now discuss the issue of funding for 'unelected opposition' parties. Unsurprisingly, the Progressive Conservatives and New Democrats argue in favor of funding for themselves in respect of their 'opposition' duties. [25] By far the weaker argument is that put forward by the Progressive Conservatives. New Brunswick P.C. Leader Malcolm Macleod argues that the Conservatives have the only valid claim to funding because of their percentage of the vote in the October election. In support of this assertion, Macleod cites the definition of a 'recognized party', as provided for in the Standing Rules of the Legislative Assembly of New Brunswick. [26] The Act specifies that:

> "recognized party" means any registered party that elects five Members or receives twenty percent of the vote at a general election. [27] (emphasis added)

While vague on this point, [28] the P.C. Leader seems to suggest that only the P.C.'s meet the definition of a 'recognized party' as set out in the Standing Rules. His reasoning is simple: the P.C.'s received 28% of the vote, the NDP only 10 percent. As such, the argument is that only the P.C.'s are deserving of 'recognition' by way of funding. Put another way, Macleod is suggesting that qualification as a 'recognized party' should lead to 'recognition' in terms of funding. David Peterson, Clerk of the Legislative Assembly of New Brunswick, describes the actions of Macleod as follows:

> It appears that one former member may be using the definition of recognized party to suggest that the definition, found only in our standing rules, applies to the Legislative Assembly Act which contains the legislation providing financing to the Opposition. He argues that because they have obtained in excess of twenty percent of the vote at a general election that they should be entitled to Opposition status. [29]

Peterson then continues, stating his disagreement with the reasoning of the P.C. Leader:

> I can find no justification for this argument and to the contrary, the provisions for financial assistance are contained in the Legislative Assembly Act and in that Act the assistance to the Leader of the Opposition or to the Leader of a Registered Political Party always refers to a Member having been elected to the Assembly and holding the office of Leader in a "Registered Political Party." [30]

My reading of the applicable statutes concurs with the interpretation put forward by the Clerk of New Brunswick's Legislative Assembly. If this is an accurate interpretation, the P.C.'s claim to exclusive funding would seem to be unjustified.

The New Democratic Party of New Brunswick seeks to counter the P.C. proposal by suggesting that any funding should be divided equally among the two parties. They argue that:

> the basis for any decision to extend financial support for opposition work must be to support the institution of the opposition and the role that the opposition occupies in the legislative system . . . . If only one party were funded, that would be nothing less than the support of one particular party over another, rather than supporting the institution of the opposition. [31]

This proposal by the N.D.P. raises an interesting question. The N.D.P. feel that "both opposition parties must be funded, or neither." [32] But where does one draw the line? If the N.D.P. argues that percentage of the vote should not be a consideration in the allocation of 'opposition funding' to political parties, is it then appropriate to deny any other potential political party a share of the funding? The answer to this question is not readily forthcoming. However, the issue alone is sufficient to conclude that the area is fraught with difficulty.

The answers come no easier when we attempt to decide the appropriateness of providing money for the performance of opposition duties to political parties not present in the Legislature. Earlier on it was decided that the Opposition's role of keeping the government accountable is an essential element of a parliamentary democracy. It was concluded that this function should continue even in the absence of an elected opposition. Moreover, it was decided that the Government has an obligation to ensure that this function does, in fact, continue. However, the issue of how best to fulfill this function is only now up for discussion, and central to any such discussion is the appropriateness of funding unelected political parties.

Despite my desire to see the role of an Opposition carried out, I have some doubts as to whether 'opposition funding' for unelected political parties is a proper and justifiable expense to be incurred by the taxpayers of New Brunswick. However, these

doubts notwithstanding, I have reluctantly arrived at the purely subjective conclusion that some modest amount of funding might be acceptable under certain conditions. First, the funding should be an interim measure only. [33] The N.D.P. has agreed with this suggestion stating:

> There appears to be a genuine concern about establishing unacceptable constitutional precedents that could perhaps come back to haunt future governments. However, the measures implemented to deal with our current dilemma can, and should, be clearly designated as interim measures to be put in place only for this period where there are no elected opposition members to the legislature. [34]

Second, such funds are only to be used in respect of their 'opposition duties' and not in purely political activities. The use of such funds may be open to review by a legislative committee. Third, while it goes without stating that the amount to be set aside is purely the jurisdiction of the Legislature, let it be clear that there is no precedent that the amount allowed must be roughly equivalent to what is customarily given to the Opposition. Fourth, any such amount should be split equally between the N.D.P. and P.C. party. My reason for stipulating that these two parties shall be the only recipients is to avoid a mass proliferation in political parties. I include this stipulation with some reluctance because of the doubts earlier mentioned.

A modest amount of funding might be acceptable but I would not agree to the suggestion that the N.D.P. and P.C.'s be allowed a quasi-representative on certain committees. [35] In my view this clearly steps over the line of what may be deemed as 'appropriate mechanism'. Committee work is solely the function of elected members, and even if one limits the role of these quasi-representatives to a questioning function, it still seems somewhat repugnant to me. However, I would go so far as to allow each party an 'opposition designate' entitled to take notes from the Gallery. [36]

In addition to the role that can be performed by political parties, several other methods exist to help keep the government accountable. One such method is a rather unique contribution by the Fredericton Daily Gleaner, a New Brunswick newspaper. Publisher Tom Crowther has agreed to provide the Conservatives and New Democrats with free space once a week during the sitting of the Legislature. In this column, the

two parties will be able to state their views on the government's legislative and policy initiatives. This contribution will be in addition to, and will not interfere with, the regular news coverage of the legislative proceedings. [37]

To this point, there has been a consideration of the Prince Edward Island case, a discussion of a possible role for political parties, and a brief description on how one media source intends to deal with the situation in New Brunswick. This final section will deal with what may arguably be the most potent force in ensuring that the Liberal Government remains accountable -- namely, Legislative reform.

The first area of suggested legislative reform has to do with increased use of Standing Committees. At present, it is only Private Bills that are automatically referred to a Standing Committee. [38] There should be strong consideration given to referring all Public Bills and departmental estimates to their respective Standing Committees. These Committees could then hold public hearings and invite response from all interested parties. Professor Sid Pobihushchy of the University of New Brunswick has suggested that these public hearings and/or meetings be de-formalized by allowing interested parties to appear without a prepared brief. [39] Presumably, this might encourage greater than normal public involvement. However, there is a problem with Standing Committees in that their involvement comes after the legislation has been drafted and prepared for the House by the respective departments.

Therefore, a more productive suggestion would see the committees, and consequently the public, getting involved at an earlier stage in the Government's policy development. Patrick Fitzpatrick, also of the University of New Brunswick, has labelled such committees "investigative committees". These committees could help formulate legislation with input from the public, instead of merely commenting on legislation already drafted. Fitzpatrick has described the effect of this type of committee work as follows:

> While the decision-making prerogative would remain with Cabinet, the MLA's would both become an input actor for public policy and would have much better knowledge for debate of legislation should this be introduced after their investigative study. [40]

These investigative committees could operate in one of three ways. They might, for example, be given a mandate to explore public policy areas of their own choosing. Alternatively, the Government might suggest an area of possible research and investigation by the Committee, but without giving any direction as to potential solutions. Thirdly, the committee might be asked to respond to a position paper (or green paper) of the Government regarding an area of public policy. The committee could analyze the options put forward by the Government and suggest any recommendations or alternatives deemed appropriate. [41] In case it is not clear, all three options of the investigative committee would be able to hold "pre-legislative hearings" [42] involving the public-at-large.

Another interesting option that might be pursued is the creation of a "Public Petitions Committee" as suggested by Professor Fitzpatrick. [43] This Committee:

> could vary from being merely an emotional outlet for citizens, who felt they had a grievance withthe government, to a vehicle by which there could be some popular initiative in recommending legislation that a Cabinet should be considering. [44]

One could imagine that this may well become an important variable in ensuring the Government's accountability. This would be especially so if the media gave substantial coverage to the proceedings of this Committee.

One final suggestion on legislative reform would effectively counter any possibility of New Brunswick duplicating the experience of P.E.I. after the 1935 election. From our earlier discussion, you may recall that the P.E.I. Assembly was little more than an extended caucus meeting, particularly in the beginning. During this time period the Assembly entered into little debate and, for the most part, just gave formal expression to what was earlier decided in caucus. A proposal, again offered by Fitzpatrick, would change all this. In a document written for Premier McKenna, Fitzpatrick concludes that:

> any prior scrutinization of legislation by the Government caucus could be disfunctional to public perceptions of your Government. Honourable Members, who have seen and discussed your legislation in caucus may develop an attitude of "Why should we be expected to talk about it again in the House" and accordingly not participate in debate . . . [45]

To counter this, Fitzpatrick suggests the following:

> Accordingly, you might want to consider not submitting your legislation to the Government caucus but rather taking it directly to the floor of the House . . . Honourable Members would be expected to make publically (sic) the same constructive criticism that they would be otherwise be making in the privacy of caucus. [46]

Obviously there is some political advantage to McKenna in this suggestion. However, there would also seem to be a healthy by-product for the parliamentary system. The public, seeing that the Government is receiving some input from its Members, would be able to judge whether or not the Government is giving this input appropriate consideration. This would then seem to be another important method of ensuring the 'inter-election accountability' of the Government.

Conclusion

The October election foist upon the Government of New Brunswick a situation almost unparalleled in Canadian history. New Brunswick's Legislative Assembly has been left without an Opposition. The purpose of this paper has been to analyze what, if anything, needs to be done in this extraordinary situation.

Logic dictated that we first determine just what is the role of the Opposition. Only then could we speculate with confidence which aspects of an Opposition's role are indispensable to the parliamentary system and must continue even in its absence. An examination was then conducted on the response of the Prince Edward Island Government to a similar situation in 1935. A discussion ensued as to whether this response was suitable for New Brunswick. Finally, some proposals were made on how best to deal with the circumstances in New Brunswick. The proposals included a role for the unelected 'opposition' parties, and suggestions for legislative reform.

In commenting or reflecting upon the suggestions that have been put forward, it should be made clear that these are by no means the only options available. Undoubtedly

there are other alternatives equally worthy of consideration. Whatever steps one may feel are necessary, or justified in the circumstances, should first be tempered by the reality that it is a democratically - elected Government subject to periodic review by the people. With the final judgement still firmly planted in the hands of the people, we should not overreact. Prince Edward Island survived the 1935 election and its democracy seems little worse for wear. As a parting comment, consider this excerpt from The Charlottetown Patriot on the election of 1935:

> we confess quite frankly that we haven't the faintest notion of what particular things brought on this particular frailty, and so unanimously . . .Nor is what happened likely to matter much. True, there won't be a solitary Conservative in "the Islands" next Legislature, and no opposition. But democracy, for all its fumbling, has a way of surmounting such things, and nothing terrible will follow. The sun will rise tomorrow on Prince Edward Island, and there will be happy bathers at Brackley Beach, and life will go on in the same old way, [47] (emphasis added)

This forecast seems equally valid for New Brunswick and may help keep things in perspective.

-o0o0o0o0o-

NOTES

1 Sir Ivor Jennings, as quoted by Thomas A. Hockin in "The Roles of the Loyal Opposition in Britain's House of Commons: Three Historical Paradigms", Parliamentary Affairs, vol. 25, no. 1, p.50.

2 Thomas A. Hockin, "The Roles of the Loyal Opposition in Britain's House of Commons: Three Historical Paradigms", in Parliamentary Affairs, vol. 25, no. 1, p.66.

3 Expressed to me in these terms by Bill Connell of the Government Members Office in New Brunswick.

4 Thomas A. Hockin, op. cit., p.51.

5 Giovanni Sartori, "Opposition and Control: Problems and Prospects", Government and Opposition, Volume 1, Number 2, January 1966, p.151.

6 Allen Potter, "Great Britain: Opposition With a Capital "O", in Political Opposition in Western Democracies, edited by Robert A. Dahl, New Haven and London: Yale University Press, 1966, pp.15-16.

7 Mr. Tierney, as quoted by Alpheus Todd in, On Parliamentary Government in England: Its Origin, Development, and Practical Operation (2 ed.) vol. 2, London and New York: Longmans, Green and Co., 1889, p.417.

8 Benjamin Disraeli, as quoted by Todd, op. cit., p.417.

9 Sir Charles Tupper, as quoted by Stanley H. Knowles in, The Role of the Opposition in Parliament, Toronto: Ontario Woodsworth Memorial Foundation, p.7.

10 John Diefenbaker, "The Role of the Opposition", Canada Month, December, 1963, p.21.

11 Patrick Fitzgerald, Proposals for Legislative Reform, unpublished but written for Premier Frank McKenna of New Brunswick, p.4.

12 Stanley H. Knowles, op. cit., p.10.

13 Erskine May, Erskine May's Treatise on the Law, Privileges, Proceedings and Usage of Parliament (20 ed), edited by Sir Charles Gordon, London: Butterworth and Co. (Publishers) Ltd., 1983, p.252. Also see: Robert A. Dahl, "Patterns of Opposition", in Political Oppositions in Western Democracies, New Haven and London: Yale University Press, 1966, p. 339.

14 In this section on the 'Role of an Opposition' I have purposely avoided the classification or categorization of opposition functions as used by Stanley H. Knowles, op.cit., p.8-11; and by Thomas A. Hockin in "Adversary Politics and Some Functions of the Canadians House of Commons", in The Canadian Political Process: A Reader (3 ed.), eds. Orest M. Kruhlak, et.al., Toronto, Montreal: Holt, Rinehart, and Winston of Canada, Ltd., 1979, pp.325-326. The classification of functions would seem to have little benefit for the purposes of this paper and, in any event, it is a subjective labelling process open to change.

15 Julian Beltrame, "Democratic Dictatorship Another Political Oddity", Calgary Herald, Oct. 15, 1987.

16 Tom McDougall, " 'It's A Good Day to be Alive', McKenna says", Calgary Herald, Oct. 15, 1987.

17 Editorial, The Charlottetown Patriot, Charlottetown: The Patriot Publishing Co., July 27, 1935.

18 Editorial, The Charlottetown Patriot, op.cit., July 30th, 1935.

19 Wayne E. MacKinnon, The Life of the Party: A History of the Liberal Party in Prince Edward Island, Summerside, P.E.I.: Williams and Crue Ltd., 1973, p.102.

20 Frank MacKinnon, The Government of Prince Edward Island, Toronto: University of Toronto Press, 1951, p.190.

21 Senator McIntyre, The Senate of Canada: Official Report of Debates, 1951, 4th Session, 21st Parliament, 15 George VI, Ottawa: Edmond Cloutier, King's Printer and Controller of Stationery, 1951, p.138.

22 Frank MacKinnon, op.cit. p.190.

23 Editorial, "Its Golden Opportunity", The Charlottetown Patriot, op.cit., August 16, 1935.

24 Ibid.

25 At the writing of this paper, the New Brunswick Government has yet to make a formal reply to the proposals of the New Democratic and Progressive Conservative Parties.

26 The Telegraph Journal, "Funds Won't Prop PCs, Says Macleod", January 7th, 1988, p.2.

27 Standing Rules of the Legislative Assembly of New Brunswick, adopted June 17, 1986, p.2.

28 See for example: The Progressive Conservative Party of New Brunswick, Press Release by Leader Malcolm Macleod, January 6th, 1988, p.1.

29 David Peterson, Brief #1 (untitled and unpublished) written for Premier McKenna of New Brunswick, p.2.

30 Ibid.

31 New Brunswick New Democrats, New Democratic Party Proposal for Opposition Support, January 26th, 1988, p.11.

32 Ibid.

33 Designation as an interim measure purposefully avoids the issue of whether it is appropriate to regularly, and as a matter of course, provide funding for political parties not present in the legislature. Such an issue is deserving of a more thoughtful analysis than could be rendered within the confines of this paper.

34 See the following: New Brunswick New Democrats, op.cit., p.9; and, The Progressive Conservative Party of New Brunswick, op.cit., p.2.

35 A proposal by, The Progressive Conservative Party of New Brunswick, op.cit., p.2.

36 From a discussion with Tom Crowther, Publisher of the Fredericton Daily Gleaner.

37 David Peterson, Brief #2 (untitled and unpublished), written for Premier McKenna of New Brunswick, p.2. Standing Rules of the Legislative Assembly of New Brunswick, op.cit., especially p.26.

38 From a conversation with Professor Sid Pobihushchy of the University of New Brunswick Political Science Department.

39 Patrick Fitzgerald, op.cit., p.15.

40 Ibid.

41 This third option was taken from: J.A. Lovink, "Parliamentary Reform and Governmental Effectiveness in Canada", in The Canadian Political Process (3 ed.), edited by Orest M. Kruhlak et. al., Toronto: Holt, Rinehart and Winston of Canada, Ltd., 1979, p.333.

42 Ibid.

43 Patrick Fitzgerald, op.cit., pp.17-19.

44 Ibid., p.19.

45 Ibid, p.24.

46 Ibid, pp.24-25.

47 "Trouble in Another Garden and Other Things", The Charlottetown Patriot (reprinted from the Ottawa Journal, op.cit., July 31st, 1935).

BIBLIOGRAPHY

Books and Articles

Diefenbaker, John. "The Role of the Opposition". Canada Month. December, 1963. pp.21-22.

Dahl, Robert A. "Patterns of Opposition". In Political Oppositions in Western Democracies. New Haven and London: Yale University Press, 1973, pp.332-401.

Hockin, Thomas A. "Adversary Politics and Some Functions of the Canadian House of Commons". In The Canadian Political Process: A Reader (3 ed.). Edited by Orest M. Kruhlak et al. Toronto: Holt, Rinehart and Winston of Canada, Ltd., 1979, pp.314-329.

Hockin, Thomas A. "The Roles of the Loyal Opposition in Britain's House of Commons: Three Historical Paradigms". Parliamentary Affairs. Volume 25, number 1, pp.50-68.

Knowles, Stanley H. The Role of the Opposition in Parliament. Toronto: Ontario Woodsworth Memorial Foundation, pp.1-11.

Lovink, J.A. "Parliamentary Reform and Governmental Effectiveness in Canada". In The Canadian Political Process: A Reader (3 ed.). Edited by Orest M. Kruhlak et al. Toronto: Holt, Rinehart and Winston of Canada, Ltd., 1979, pp.330-343.

MacKinnon, Frank. The Government of Prince Edward Island. Toronto: University of Toronto Press, 1951.

MacKinnon, Wayne E. The Life of the Party: A History of the Liberal Party in Prince Edward Island. Summerside: Williams and Crue Ltd., 1973.

May, Erskine. Erskine May's Treatise on the Law, Privileges, Proceedings and Usage of Parliament (20 ed.) Edited by Sir Charles Gordon. London: Butterworth and Co. (Publishers) Ltd., 1983.

New Brunswick New Democrats. New Democrats Party Proposal for Opposition Support. January 26, 1988.

Potter, Allen. "Great Britain: Opposition With a Capital 'O'". In Political Opposition in Western Democracies. Edited by Robert A. Dahl. New Haven and London: Yale University Press, 1966, pp.3-33.

Progressive Conservative Party of New Brunswick. *Press Release* (by Leader Malcolm Macleod). January 6th, 1988.

Sartori, Giovanni. "Opposition and Control: Problem and Prospects". Government and Opposition, Volume 1, Number 2, January 1966, pp.149-154.

Todd, Alpheus. On Parliamentary Government in England: Its Origin, Development and Practical Operation (2 ed.), Volume 2. London and New York: Longmans, Green and Co., 1889.

Official Publications

The Senate of Canada. Official Report of Debates, 1951. 4th Session, 21st Parliament, 15 George VI. Ottawa: Edmond Cloutier, King's Printer and Controller of Stationery, 1951.

Statutes

New Brunswick Legislative Assembly. Standing Rules of the Legislative Assembly of New Brunswick. Adopted June 17th, 1986.

Newspaper Sources

The Calgary Herald

Beltrame, Julian. "Democratic Dictatorship Another Political Oddity". Calgary Herald, October 15th, 1987.

McDougall, Tom. " 'It's a Good Day to be Alive', McKenna says". Calgary Herald, October 15th, 1987.

The Charlottetown Patriot

Editorial. The Charlottetown Patriot. Charlottetown: The Patriot Publishing Co., July 27th, 1935.

Editorial. The Charlottetown Patriot. Charlottetown: The Patriot Publishing Co., July 30, 1935.

Editorial. "Its Golden Opportunity". The Charlottetown Patriot. Charlottetown: The Patriot Publishing Co., August 16th, 1935.

"Trouble in Another Garden and Other Things". The Charlottetown Patriot. Charlottetown: The Patriot Publishing Co., July 31, 1935.

The Telegraph Journal

"Funds Won't Prop P.C.s, says Macleod". The Telegraph Journal. January 7th, 1988

Telephone Interviews

Connell, Bill. Government Members Office in New Brunswick.

Crowther, Tom. Publisher of the Fredericton Daily Gleaner. Fredericton, New Brunswick.

Pobihushchy, Professor Sid. University of New Brunswick Political Science Department.

Unpublished Sources

Fitzpatrick, Patrick. Proposals for Legislative Reform. Written for Premier Frank McKenna of New Brunswick, not dated.

Peterson, David. Brief #1 (note: this document was untitled and this designation is purely my own). Written for Premier Frank McKenna of New Brunswick, not dated.

Peterson, David. Brief #2 (note: this document was untitled and this designation is purely my own). Written for Premier Frank McKenna of New Brunswick, not dated.